

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

Michael D. Massey
(Name of plaintiff or plaintiffs)

CIVIL ACTION NO. _____

v.
S.M. Lawrence Co., Inc. and Comfort Systems USA, Inc
(Name of defendant or defendants)

COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred in the Court by 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5 (g).

2. Plaintiff, Michael D. Massey
(name of plaintiff)

is a citizen of the United States and resides at
3602 Oak Hollow Circle, Apt. 104, Shelby County, Memphis, TN 38116

(street address) (city) (county) (state)

901-515-8378 ; 731-736-1700

(telephone number)

3. Defendant S.M. Lawrence Co., Inc. and Comfort Systems USA, Inc
(defendant's name)

lives at, or its business is located at

245 Preston Street Jackson Madison County Tennessee
 (street address) (city) (county) (state)

38301 731-423-0112
 (zip code) (telephone number)

4. Plaintiff sought employment from the defendant or was employed by the defendant at
245 Preston Street Jackson Madison Tennessee

(street address) (city) (county) (state)
38301 731-423-0112
 (zip code) (telephone number)

5. Defendant: discriminated against plaintiff in the manner indicated in paragraph 9 of this complaint on or about:

July 2005 through September 2007
 (month) (day) (year)

6. Plaintiff filed charges against the defendant with the Tennessee Fair Employment Commission charging defendant with the acts of discrimination indicated in paragraph 9 of this complaint on or about

February 12, 2007 and April 13, 2007
 (month) (day) (year)

7. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission charging defendant with the acts of discrimination indicated in paragraph 9 of this complaint on or about

February 12, 2007 and April 13, 2007

(month) (day) (year)

8. The Equal Employment Opportunity Commission issued a Notice of Right to Sue which was received by plaintiff on

July 29 2008
(month) (day) (year)

a copy of which notice is attached to this complaint.

9. Because of plaintiff's (1) X race, (2) _____ color,
(3) X sex, (4) _____ religion,
(5) national origin, defendant
(6) X retaliation
- (a) _____ failed to employ plaintiff.
(b) X terminated plaintiff's employment
(c) _____ failed to promote plaintiff.
(d) X (OTHER) Job assignment; racial harassment

10. The circumstances under which defendant discriminated against plaintiff were as follows:

I was subjected to racial slurs and sexual comments by my supervisor. I was not reassigned jobs and my work went to a white female. After I complained to the EEOC, I was given less work and eventually terminated.

11. The acts set forth in paragraph 9 of this complaint

- (a) _____ are still being committed by defendant.
(b) X are no longer being committed by defendant.
(c) _____ may still be being committed by defendant.

12. Plaintiff attached to this complaint a copy of the charges filed with the Equal Employment Opportunity Commission which charges are submitted as a brief statement of the facts supporting this complaint. I also make a claim under 42 U.S.C. § 1981 for racial discrimination and retaliation.

WHEREFORE, Plaintiff prays that the Court grant the following relief to the plaintiff:

- (a) _____ Defendant be directed to employ plaintiff, or
- (b) _____ Defendant be directed to re-employ plaintiff, or
- (c) _____ Defendant be directed to promote plaintiff, or.
- (d) X Defendant be directed to pay me back pay, compensatory damages,
and punitive damages.

and that the Court grant such other relief as may be appropriate, including injunctive orders, damages costs and attorney's fees.



SIGNATURE OF PLAINTIFF

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Michael D. Massey**
319 W. Forest Avenue
Jackson, TN 38301

From: **Memphis District Office**
1407 Union Avenue
Suite 901
Memphis, TN 38104



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

490-2007-01933

Dwight V. Johnson,
Investigator

(901) 544-0164

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

JUL 29 2008

Enclosures(s)

Katharine W. Kores,
Director

(Date Mailed)

cc: **Don Donati**
Donati Law Firm
1545 Union Avenue
Memphis, TN 38104

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Michael D. Massey**
319 W. Forest Avenue
Jackson, TN 38301

From: **Memphis District Office**
1407 Union Avenue
Suite 901
Memphis, TN 38104



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

490-2007-01228

Dwight V. Johnson,
Investigator

(901) 544-0164

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

JUL 29 2008

Enclosures(s)

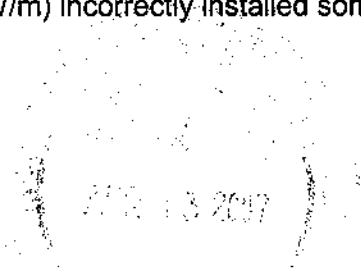


Katharine W. Kores,
Director

(Date Mailed)

cc:

Elizabeth Low
Attorney
Baker, Donelson, Caldwell
165 Madison Ave., Suite 2000
Memphis, TN 38103

| CHARGE OF DISCRIMINATION | | Charge Presented To: Agency(ies) Charge No(s): | |
|--|--|--|-------------------------------|
| This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form. | | <input type="checkbox"/> FEPA | 490-2007-01228 |
| | | <input checked="" type="checkbox"/> EEOC | |
| Tennessee Human Rights Commission and EEOC | | | |
| State or local Agency, if any | | | |
| Name (indicate Mr., Ms., Mrs.) | | Home Phone (Incl. Area Code) | Date of Birth |
| Mr. Michael D. Massey | | (731) 935-2766 | 1959 |
| Street Address | | City, State and ZIP Code | |
| 319 W. Forest Avenue, Jackson, TN 38301 | | | |
| Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.) | | | |
| Name | | No. Employees, Members | Phone No. (Include Area Code) |
| S. M. LAWRENCE/COMFORT SYSTEMS, USA | | 201 - 500 | (731) 423-0112 |
| Street Address | | City, State and ZIP Code | |
| 245 Preston, Jackson, TN 38301 | | | |
| Name | | No. Employees, Members | Phone No. (Include Area Code) |
| | | | |
| Street Address | | City, State and ZIP Code | |
| | | | |
| DISCRIMINATION BASED ON (Check appropriate box(es).) | | DATE(S) DISCRIMINATION TOOK PLACE | |
| <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN | | Earliest Latest | |
| <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.) | | 07-01-2005 01-31-2007 | |
| | | <input type="checkbox"/> CONTINUING ACTION | |
| THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)). | | | |
| <p>I was hired with the above named employer since October 17, 1003. I am currently in the position of Pipe Fitter. Since July 2005, I have been subjected to racial slurs and sexual comments by my Supervisor and the Project Manager. On February 7, 2007, the project I was assigned to ended and I have not been allowed to return back to work or be reassigned to another project. I believe I have been discharged or laid off. A White female was hired performing the duties I performed.</p> <p>I believe I have been discriminated against because of my race, Black, in violation of Title VII of the Civil Rights Act of 1964, as amended.</p> | | | |
| I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. | | NOTARY - When necessary for State and Local Agency Requirements | |
| I declare under penalty of perjury that the above is true and correct. | | I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. | |
| Feb 12, 2007 | | SIGNATURE OF COMPLAINANT | |
| Date | | Michael Massey | |
| Charging Party Signature | | SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE | |
| | | (month, day, year) | |
| | | 2/12/07 [Signature] | |

| | | | |
|---|--|--|--|
| CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small> | | Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 490-2007-01933 | |
| Tennessee Human Rights Commission and EEOC <small>State or local Agency, if any</small> | | | |
| Name (indicate Mr., Ms., Mrs.) Mr. Michael D. Massey | | Home Phone (Incl. Area Code) (731) 935-2766 | Date of Birth 1959 |
| Street Address 319 W. Forest Avenue | | City, State and ZIP Code Jackson, TN 38301 | |
| Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.) | | | |
| Name S M LAWRENCE/COMFORT SYSTEMS USA | | No. Employees, Members 15 - 100 | Phone No. (Include Area Code) (901) 423-0112 |
| Street Address 245 Preston Street | | City, State and ZIP Code Jackson, TN 38301 | |
| Name | | No. Employees, Members | Phone No. (Include Area Code) |
| Street Address | | City, State and ZIP Code | |
| DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.) | | DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 04-10-2007 04-10-2007 <input type="checkbox"/> CONTINUING ACTION | |
| THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): On or about April 10, 2007, I was removed from the Embassy Suites job site and sent to Exxon job site. The job at the Embassy Suites was not completed at the time I was removed. Johnny Cooper (W/m) Superintendent asked me how I installed the toilets, once I told him how I installed them, he told me all but one was done incorrectly (installed 20). I explained this is how I have been doing them all alone and never had a complaint. I have been employed as a pipe fitter since on or about October 17, 2003. I believe that I have been discriminated against because of my race (Black) and in retaliation for filing a previous charge of discrimination (490-2007-01228) all in violation of Title VII of the Civil Rights Act of 1964, as amended in that when Eric (W/m) incorrectly installed some vents that failed the inspection, he was not removed from the job site.  | | | |
| I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. | | NOTARY – When necessary for State and Local Agency Requirements | |
| I declare under penalty of perjury that the above is true and correct. | | I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. | |
| Apr 13, 2007 Date | | SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) 4/13/07  | |